



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/021,328

10/29/2001

Per Hellberg

P/1318-138

6161

2352

7590

06/13/2006

OSTROLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NY 100368403

EXAMINER

AGWUMEZIE, CHARLES C

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/021,328	<b>Applicant(s)</b> HELLBERG ET AL.	
	<b>Examiner</b> Charlie C. Agwumezie	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/04/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. **Claim 1** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, independent claim 1, refers to “a second license manager operable to ...”. The term “operable” is a vague and indefinite and fails to particularly point out and distinctly claim the subject matter of the Applicant’s invention. In other words claim 1 fails to properly set forth the metes and bounds of the claimed invention. Thus independent claim 1 and dependent claims 2-30 are rejected under the second paragraph of ***35 USC § 112***.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-11,13, and 14-30**, are rejected under 35 U.S.C. 102(e) as being anticipated by Granger et al U.S. Patent No. 6,480,959 B1

2. As per **claim 1**, Granger et al discloses a software license manager system, comprising:

a plurality of application programs (fig. 12; col. 24, lines 20-26, 55-60);

a plurality of license certificates that authorize use of corresponding ones of the application programs (fig. 12; col. 24, lines 20-26, 55-60);

license retrieval protocols associated with and operable by the application programs to request license authorizations, each of the protocols being associated and operable with a predetermined license manager (col. 24, lines 20-26, 55-60; col. 25, lines 20-40); and

a second license manager operable to intervene and perform at least a portion of the functions otherwise performed by a plurality of the predetermined license managers (fig. 12; col. 24, line 62-col. 25, line 15; col. 25, lines 20-40).

3. As per **claim 2**, Granger et al further discloses the software license manager system, in which the second license manager is operable transparently to the plurality of application programs (fig. 12).

4. As per **claim 3**, Granger et al further discloses the software license manager system, in which the application programs include a facility that enables their selective operation with a predetermined license manager or with the second license manager (fig. 12; col. 25, lines 1-40).

5. As per **claim 4**, Granger et al further discloses the software license manager system, in which the second license manager serves as a central license manager for substantially all of the application programs in a computer (fig. 12; col. 24, lines 20-25, 55-67).

6. As per **claim 5**, Granger et al further discloses the software license manager system, in which the second license manager serves to centralize and replace software operations normally performed by a plurality of predetermined license managers (fig. 12; col. 25, lines 1-40).

7. As per **claim 6**, Granger et al further discloses the software license manager system, in which the license certificates are associated with, controlled and dispensed by the central license manager (fig. 12; col. 25, lines 1-40).

8. As per **claim 7**, Granger et al further discloses the software license manager system, including a plurality of the predetermined license managers and the plurality of the predetermined license managers being operationally coupled with the central license manager (fig. 12; col. 24, lines 20-25, 55-67; col. 25, lines 1-40).

9. As per **claim 8**, Granger et al further discloses the software license manager system, including at least one predetermined license manager and the second license

Art Unit: 3621

manager being operable to handle and store license use historical information (fig. 12; col. 24, lines 20-25, 55-67; col. 25, lines 1-40).

10. As per **claim 9**, Granger et al further discloses the software license manager system, in which the license certificates are associated with and directly controlled by the at least one predetermined license manager (fig. 12).

11. As per **claim 10**, Granger et al further discloses the software license manager system, in which the at least one predetermined license manager is coupled to the second license manager and uses the second license manager as a repository for its license certificates (fig. 12; col. 24, lines 20-25, 55-67; col. 25, lines 1-40).

12. As per **claim 11**, Granger et al further discloses the software license manager system, in which the second license manager is operable by intercepting API (Application Program Interface) calls issued by the plurality of application programs (fig. 12; col. 25, lines 20-40).

13. As per **claim 13**, Granger et al further discloses the software license manager system, in which the second license manager intercepts API calls by renaming modules (col. 19, lines 60-67; col. 21, lines 35-45; col. 26, lines 5-15).

14. As per **claim 14**, Granger et al further discloses the software license manager

Art Unit: 3621

system, in which the second license manager intercepts an API call by executing exit routines (col. 16, lines 30-40).

15. As per **claim 15**, Granger et al further discloses the software license manager system, in which the system is operable to obtain for the application programs license certificates without assistance from any predetermined license manager (fig. 12).

16. As per **claim 16**, Granger et al further discloses the software license manager system, in which, where the predetermined license manager has an API library that is provided as a shared runtime library or an executing agent process, the second license manager replaces the API library of the predetermined license manager with a shared runtime library or agent process thereof (col. 26, lines 5-15).

17. As per **claim 17**, Granger et al further discloses the software license manager system, in which the second license manager has a translator that includes a facility that provides data compatibility between itself and the protocols associated with a plurality of the predetermined license managers (fig. 12; col. 25, lines 1-40).

18. As per **claim 18**, Granger et al further discloses the software license manager system, in which the facility of the second license manager is operable to provide one or more of the following functionalities:

(a) temporary data elements, if necessary, to contain translated data for use in API calls (col. 20, lines 40-45);

(b) data elements in a format of one or more tables, lists, files to retain relevant data elements for one or more of the predetermined license manager protocols or the second license manager and their status across multiple API calls (col. 20, lines 26-45);

(c) conversion tables between data variables (col. 22, lines 15-55; col. 24, lines 1-55); and

(d) aliases to enable the protocols of the predetermined license manager or the second license manager to reference the same data where the respective formats are different (col. 22, lines 15-55; col. 24, lines 1-55).

19. As per **claim 19**, Granger et al further discloses the software license manager system, in which the second license manager comprises a plurality of data translations procedures that are implemented individually within a translator facility of the second license manager (col. 8, lines 8-20; col. 25, lines 1-40).

20. As per **claim 20**, Granger et al further discloses the software license manager system, in which the plurality of data translation procedures are implemented:

(a) individually within the translator of the second license manager (col. 25, lines 1-40);

(b) as a separate runtime library of procedures that can be executed by API calls (col. 16, lines 30-40; col. 20, lines 25-45);



(c) as an external agent process (col. 16, lines 30-40); or

(d) by intercepting API calls of the predetermined license manager (col. 25, lines 20-40).

21. As per **claim 21**, Granger et al further discloses the software license manager system, further including at least one predetermined license manager and including a license certificate translator that is operable for translating license certificates created for the predetermined license manager to license certificates that are compatible with license certificate formats associated with the second license manager and vice versa (fig. 12; col. 25, lines 1-40).

22. As per **claim 22**, Granger et al further discloses the software license manager system, in which the license certificate translator has a first set of procedures that are invoked to determine if the license certificate translator is to be employed in whole or part (col. 8, lines 8-20; col. 25, lines 1-40).

23. As per **claim 23**, Granger et al further discloses the software license manager system, in which the first set of procedures operate by reference to a knowledge base or by calls to application program interface calls of the predetermined license manager (col. 16, lines 40-55).

24. As per **claim 24**, Granger et al further discloses the software license manager

Art Unit: 3621

system, in which the license certificate translator is linked in part into the at least one predetermined license manager as an object code, as a shared runtime library, or as an executing process that is accessed via its own set of API calls (fig. 12; col. 25, lines 1-50).

25. As per **claim 25**, Granger et al further discloses the software license manager system, including at least one predetermined license manager which operates with the second license manager as dual license managers (fig. 12).

26. As per **claim 26**, Granger et al further discloses the software license manager system, in which the at least one predetermined license manager and the second license manager cooperate to use their respective license certificates (fig. 12; col. 25, lines 1-40).

27. As per **claim 27**, Granger et al further discloses the software license manager system, in which the second license manager develops license management information (fig. 12; col. 25, lines 20-40).

28. As per **claim 28**, Granger et al further discloses the software license manager system, including at least one predetermined license manager having a facility for making API calls to the second license manager to obtain license certificates (fig. 12; col. 25, lines 20-40).

29. As per **claim 29**, Granger et al further discloses the software license manager system, in which the at least one predetermined license manager communicates license use data to the second license manager for storage therein (col. 24, lines 55-67; col. 25, lines 1-40).

30. As per **claim 30**, Granger et al further discloses the software license manager system, in which the software license manager system operates without any predetermined license managers (fig. 12).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 12**, is rejected under 35 U.S.C. 103(a) as being unpatentable over Granger et al U.S. Patent No. 6,480,959 B1 in view of Torrubia-Saez U.S. Patent Application Publication No. 2005/0251686 A1.

31. As per **claim 12**, Granger et al failed to explicitly disclose the software license manager system, in which the second license manager intercepts the API calls by carrying out a hooking process.

Art Unit: 3621

Torrubia-Saez discloses the software license manager system, in which the second license manager intercepts the API calls by carrying out a hooking process (0159; 0160).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Granger et al and incorporate the software license manager system, in which the second license manager intercepts the API calls by carrying out a hooking process as taught by Torrubiya-Saez in order to ensure proper replacement of the routine occurred.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference cited to Horstmann U.S. Patent 6,009,401 and Armstrong et al U.S. Patent 6,959,291 are documents considered relevant to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Agwumezie whose number is **(571) 272-6838**. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on **(571) 272 – 6712**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks  
Washington D.C. 20231**

Or faxed to:

Art Unit: 3621

**(571) 273-8300.** [Official communications; including After Final communications labeled "Box AF"].

**(571) 273-8300.** [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"].

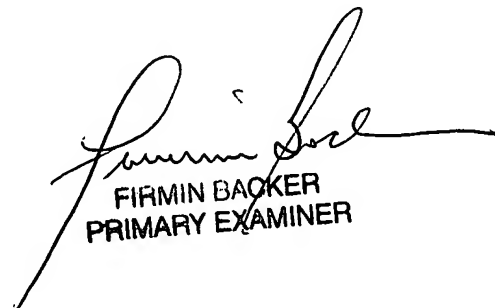
Hand delivered responses should be brought to the United States Patent and Trademark Office Customer Service Window:

**Randolph Building,**

**401 Dulany Street**

**Alexandria VA. 22314**

**Charlie Lion Agwumezie**  
**Patent Examiner**  
**Art Unit 3621**  
**June 7, 2006**



**FIRMIN BACKER**  
**PRIMARY EXAMINER**